

a*36-5
a*50
a*55

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5; Title 50 and Title 55, relative to denial or revocation of driver, hunting or fishing, occupational, trade, industry, business, or professional licenses, permits, registrations, or certifications for failure to pay child support.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 5, is amended by adding Sections 2 through 15 of this act as a new part:

SECTION 2. As used in this part unless the context otherwise requires:

- (1) "Commissioner" means the commissioner of human services.
- (2) "Compliance with an order of support" means that the obligor is no more than ninety (90) days in arrears in making payments in full for current support, in making periodic payments on a support arrearage pursuant to a written agreement with the department of human services or in making periodic payments as set forth in a court order of support.
- (3) "Department" means the department of human services.
- (4) "License" means a license, certification, registration, permit, approval or other similar document issued to an individual evidencing admission to or

granting authority to engage in a profession, trade, occupation, business, or industry, to hunt or fish, or to operate any motor vehicle or other conveyance.

(5) "Licensee" means any individual holding a license, certification, registration, permit, approval, or other similar document evidencing admission to or granting authority to engage in a profession, trade, occupation, business, or industry, to hunt or fish, or to operate any motor vehicle or other conveyance.

(6) "Licensing authority" means the board, commission, or agency which has been established by statute or state regulation to oversee the issuance and regulation of any license. Excluded from this definition is any licensing authority established solely by the action and authority of a county or municipal government.

(7) "Obligee" means any individual to whom a duty of support is owed or any state or political subdivision to whom such duty has been assigned or which is collecting support on behalf of an obligee.

(8) "Obligor" means any individual owing a duty of support.

(9) "Order of support" means any judgment or order for the support of dependent children issued by any court of this state or another state, including an order in a final decree of divorce, or any order issued in accordance with an administrative procedure established by state law in this or another state that affords substantial due process and is subject to judicial review.

SECTION 3. (a) The department may serve upon an obligor who is not in compliance with an order of support a notice that informs the obligor of the department's intention to submit the obligor's name to the appropriate licensing authority as a licensee who is not in compliance with an order of support.

(b) The notice shall state that:

(1) The obligor may request an administrative hearing to contest the issue of compliance;

(2) A request for a hearing must be made in writing and must be received by the department within twenty (20) days of service;

(3) If the obligor requests a hearing within twenty (20) days of service, the department shall stay action to certify the obligor to any appropriate licensing authority for noncompliance with an order of support pending a decision after a hearing;

(4) If the obligor does not request a hearing within twenty (20) days of service and is not in compliance with an order of support, the department may certify the obligor to any appropriate licensing authority for noncompliance with a court order of support;

(5) If the department certifies the obligor to a licensing authority for noncompliance with an order of support, the licensing authority, notwithstanding any other provision of law to the contrary, must deny a renewal request or must revoke the obligor's license and refuse to issue or reissue a license until the obligor provides the licensing authority with a release from the department that states the obligor is in compliance with the obligor's support order. A revocation by a licensing authority or a refusal by a licensing authority to reissue, renew or otherwise extend the license is deemed a final order within the meaning of Tennessee Code Annotated, Title 4, Chapter 5.

(6) If the obligor files a motion to modify support with the court or requests the department to amend a support obligation established by an administrative decision, the department shall stay action to certify the obligor to any licensing authority for noncompliance with an order of support.

(c) The notice to the obligor shall include the address and telephone number of the office of the department or its contractor that issues the notice and a statement of the need to obtain a release from that office as provided in Section 9 in order to allow the obligor's license to be issued, renewed or reinstated. The notice shall be served by certified mail, return receipt requested, or by personal service with an affidavit of service completed by an authorized representative of the commissioner.

SECTION 4. (a) An obligor may request an administrative hearing upon receiving the notice described in Section 3 to contest the department's intention to issue a finding of noncompliance to a licensing authority. The request for hearing must be made in writing and must be received by the department within twenty (20) days of the date of service of the notice issued.

(b) The department shall conduct a hearing in accordance with the provisions of Section 4-5-301 et seq; provided, however, notwithstanding any lawful rule or regulation to the contrary, the sworn certificate of the department or its agent or the Title IV-D agency of another state regarding the issues in subsection (c)(1) and (2) shall be admissible in evidence and shall constitute a rebuttable presumption of the obligor's status.

(c) The only issues for consideration at the administrative hearing shall be:

(1) Whether the obligor is required to pay child support under a court or administrative order; and

(2) Whether the obligor is in compliance with a court or administrative order of support.

(d) The administrative hearing under this section may not consider the reasons for failure to pay support nor may it modify the support order in any manner. The obligor must seek relief upon these issues in the court or administrative forum with jurisdiction to adjudicate such issues.

SECTION 5. The department shall render a decision after hearing without undue delay as to whether the obligor is in compliance with the obligor's order of support. The decision must be based on the hearing record and rules adopted by the commissioner. The decision must inform the obligor that the obligor may file a petition for judicial review of the decision within thirty (30) days of the date of the decision. The department shall send an attested copy of the decision to the obligor by regular mail to the obligor's most recent address of record.

SECTION 6. (a) If an obligor timely requests a hearing to contest the issue of compliance, the department may not certify the name of the obligor to the licensing authority for noncompliance with an order of support until the department issues a decision after a hearing that finds the obligor is not in compliance with an order of support. Provided, however, that after a decision by the department has been made in the form of a final order as provided in Section 4-5-315, there will be no further stay unless a reviewing court issues a stay.

(b) Notwithstanding any law to the contrary, the department is authorized to assess costs of the unsuccessful appeal of notices of noncompliance to the obligor. The department may by motion in the court with jurisdiction over the support order recover such costs against the obligor and the court shall direct the obligor to pay such costs to the department.

SECTION 7. (a) The department may certify to the licensing authority in writing that an obligor is not in compliance with an order of support if:

(1) The obligor does not timely request a hearing upon service of notice issued under Section 3 and is not in compliance with an order of support twenty-one (21) days after service of the notice;

(2) The department issues a decision after a hearing that finds the obligor is not in compliance with an order of support; or

(3) A court, upon a petition for judicial review of the department's decision and upon its issuance of a stay of that decision pending its ruling, enters a judgment that upholds the department's finding that the obligor is not in compliance with an order of support.

(b) The department shall send by regular mail a copy of any certification of noncompliance filed with a licensing authority to the obligor at the obligor's most recent address of record.

(c) The notice to the licensing authority must include the social security number and address of the obligor, the amount of the unpaid support obligation, the name, address and telephone number of the department's designee for implementing the provisions of this act, if any, and a sworn certification by the department, its contractor,

or the Title IV-D agency of another state, that the licensee is an obligor subject to this act.

SECTION 8. (a) The certification from the department under Section 7 shall be, notwithstanding any other law, rule or regulation to the contrary, a basis for the denial or refusal to issue a license or to suspend or revoke a license by a licensing authority.

(b) The licensing authority shall notify without undue delay by certified mail, return receipt requested, an obligor certified from the department under Section 7, that the obligor's application for the issuance or renewal of a license may not be granted or that the obligor's current license will be suspended or revoked because the obligor's name has been certified by the department as an obligor who is not in compliance with an order of support.

(c) A notice to the obligor by the licensing authority to revoke, deny, suspend, or refuse to renew a license after receipt of the notice of noncompliance from the department shall be a final determination of the license for purposes of appeal under Section 4-5-301 et seq., if applicable, or under such other administrative appeal procedures as may be available.

SECTION 9. (a) When an obligor who is served notice under Section 3 complies with the order of support, the department shall provide the licensing authority with written confirmation that the obligor is in compliance with the order and issue a release to the obligor.

(b) Upon receipt of the written confirmation of compliance, the licensing authority shall issue or extend the obligor's license, or withdraw any revocation of the obligor's license and reinstate the obligor's license, provided that all other applicable licensing

requirements are met by the obligor. After receipt of the written confirmation of compliance and, notwithstanding any law, rule or regulation regulating the licensing authority to the contrary, the licensing authority may waive any other such applicable requirement for the issuance, renewal or reinstatement of the obligor's license if it determines that such other licensing requirement places an undue burden on the obligor and that the waiver of the requirement is consistent with the public interest.

SECTION 10. The department shall have authority to adopt any necessary rules to implement and enforce the requirements of this act in accordance with the Uniform Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 11. The various licensing authorities shall cooperate with the department in any manner necessary to effectuate this act, and the department and the various licensing authorities shall enter into any necessary agreements to carry out the purposes of this act.

SECTION 12. Nothing in this act prohibits an obligor from filing a motion to modify support with the court or from requesting the department to amend a support obligation established by an administrative decision. The department shall stay action to certify the obligor to any licensing authority for noncompliance with an order of support if the obligor files a motion to modify support with the court and notifies the department of the motion or requests the department to amend a support obligation established by the department.

SECTION 13. On or before January 1, 1996, or as soon thereafter as economically feasible and at least annually thereafter, all licensing authorities subject to this act shall provide to the department specified information on magnetic tape or other

machine-readable format, according to standards established by the department, about applicants for licensure and all current licensees. The information provided must include:

- (1) Name;
- (2) Date of birth;
- (3) Address of record;
- (4) Federal employer identification number or social security number;
- (5) Physical description if available;
- (6) Type of license;
- (7) Effective date of license or renewal;
- (8) Expiration date of license; and
- (9) Active or inactive status of the license.

SECTION 14. The department, upon receipt of the licensee information referred to in Section 13, shall identify and notify each licensing authority of the names of any of its licensees who are obligors subject to this act. The notice must include the social security number and address of the obligor, the name, address and telephone number of the department's designee for implementing this act and a certification by the department that it has verified that the licensee is an obligor subject to this act. When the department notifies a licensing authority under this section, the department shall provide adequate notice of its action to the obligor. The notice must inform the obligor of the right to request a hearing on the issue of whether the obligor is in compliance with a court order of support. The licensing authority may not issue or renew a license to a

person whose name is on the most recent list from the department until the board receives a copy of the release specified in Section 9.

SECTION 15. In furtherance of the public policy of increasing collection of child support, the department shall report the following to the general assembly and the governor on January 31, 1997, and annually thereafter:

- (1) The number of obligors identified as licensees subject to this act;
- (2) The number of obligors identified by the department under this act who are not in compliance with an order of support; and
- (3) The number of actions taken by the department under this act and the results of those actions.

SECTION 16. Tennessee Code Annotated, Title 50, is amended by adding the following language as a new, appropriately designated chapter:

Section _____. Upon notice by the department of human services, and except as provided in the following section, an employer doing business in the state shall report to the department the:

- (1) Hiring of a person who resides or works in this state to whom the employer anticipates paying earnings; and
- (2) Rehiring or return to work of any employee who was laid off, furloughed, separated, granted a leave without pay or terminated from employment.

Section _____. An employer is not required to report the hiring of a person who:

- (1) Will be employed for less than one (1) month's duration; or

- (2) Will have gross earnings of less than three hundred dollars (\$300) in every month.

The commissioner of human services may adopt rules to establish additional exceptions if needed to reduce unnecessary or burdensome reporting.

Section _____. An employer required to report under the first section of this chapter may report by mailing the employee's copy of the W-4 form, transmitting a facsimile thereof, sending magnetic tape in a compatible format or by other means as mutually agreed to by the employer and the department that will result in timely reporting.

Section _____. An employer shall submit a report within seven (7) days of the hiring, rehiring or return to work of the employee. The report shall contain:

- (1) The employee's name, address, social security number and date of birth; and
- (2) The employer's name, address and employment security reference number or unified business identifier number.

Section _____. The department shall retain the information for a particular employee only if the department is responsible for establishing, enforcing or collecting a support obligation or debt of the employee. If the employee does not owe such an obligation or a debt, the department may not create a record regarding the employee and the information contained in the report must be destroyed promptly.

Section _____. An employer who knowingly fails to report as required under this chapter must be given a written warning for the first violation and is subject to

a civil penalty of up to two hundred dollars (\$200) per month for each subsequent violation after the warning has been given. All violations within a single month are considered a single violation for purposes of assessing the penalty.

SECTION 17. (a) In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by law, rule or regulation issued under the provisions of Tennessee Code Annotated, Titles 43, 44, 45, 56, 62, 63, 68 or 70, for an individual to engage in a profession, trade, occupation, business, or industry, or to hunt or fish, applicants for licensure, certification or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Sections 2 through 15 of this act.

(b) Upon suspending an individual's license, certification, registration or permit in accordance with Section 8, the licensing authority must notify the individual of the suspension. A notice of suspension must specify the reason and statutory grounds for the suspension and the effective date of the suspension and may include any other notices prescribed by the licensing authority. The notice must inform the individual that in order to apply for reinstatement, the individual must obtain a release from the department of human services in accordance with Section 9. The notice must inform the individual that the individual may file a petition for judicial review of the notice of suspension in chancery court in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

(c) The Supreme Court is encouraged to establish guidelines to suspend the license of an attorney who fails to comply with the requirements of Sections 2 through 15 of this act.

SECTION 18. Tennessee Code Annotated, Title 55, Chapter 50, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section _____. (a) In addition to other qualifications and conditions established by this title, the right of an individual to hold a driver license or permit issued by the department of safety is subject to the requirements of Sections 2 through 15 of this act.

(b) Upon receipt of a written certification from the commissioner of human services that an obligor who owns or operates a motor vehicle is not in compliance with an order of support, the commissioner shall suspend the driver license of and right to operate and obtain the license of the individual so certified. The commissioner of safety may not reinstate an operator's driver license suspended for noncompliance with an order of support until the commissioner of human services issues a release that states the obligor is in compliance with an order of support or the court orders reinstatement. For purposes of this section "driver license" includes commercial driver license.

(c) Upon suspending an individual's driver license, permit or privilege to operate under subsection (b), the commissioner of safety must notify the individual of the suspension. A notice of suspension must specify the reason and statutory grounds for the suspension and the effective date of the suspension and may include any other notices prescribed by the commissioner. The notice must inform the individual that in order to apply for reinstatement, the individual must obtain a release from the department of human services in accordance with Section 9. The notice must inform the individual that the individual may file a petition for judicial

review of the notice of suspension in chancery court in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

(d) Upon being presented with a conditional release issued by the commissioner of human services and at the request of an individual whose driver license, permit or privilege to operate has been suspended, the commissioner of safety may issue the individual a temporary license valid for a period not to exceed one hundred twenty (120) days.

(e) The commissioner of safety shall adopt rules and regulations in accordance with the Uniform Administrative Procedures Act, Title 4, Chapter 5, to implement and enforce the requirements of this section.

(f) The commissioner of safety and the commissioner of human services may enter into an agreement to carry out the requirements of this section.

SECTION 19. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect January 1, 1996, the public welfare requiring it.

- AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5; Title 50 and Title 55, relative to denial or revocation of driver, hunting or fishing, occupational, trade, industry, business, or professional licenses, permits, registrations, or certifications for failure to pay child support.
- AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5; Title 50 and Title 55, relative to denial or revocation of driver, hunting or fishing, occupational, trade, industry, business, or professional licenses, permits, registrations, or certifications for failure to pay child support.
- AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5; Title 50 and Title 55, relative to denial or revocation of driver, hunting or fishing, occupational, trade, industry, business, or professional licenses, permits, registrations, or certifications for failure to pay child support.
- AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5; Title 50 and Title 55, relative to denial or revocation of driver, hunting or fishing, occupational, trade, industry, business, or professional licenses, permits, registrations, or certifications for failure to pay child support.
- AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5; Title 50 and Title 55, relative to denial or revocation of driver, hunting or fishing, occupational, trade, industry, business, or professional licenses, permits, registrations, or certifications for failure to pay child support.
- AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5; Title 50 and Title 55, relative to denial or revocation of driver, hunting or fishing, occupational, trade, industry, business, or professional licenses, permits, registrations, or certifications for failure to pay child support.
- AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5; Title 50 and Title 55, relative to denial or revocation of driver, hunting or fishing, occupational, trade, industry, business, or professional licenses, permits, registrations, or certifications for failure to pay child support.
- AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5; Title 50 and Title 55, relative to denial or revocation of driver, hunting or fishing, occupational, trade, industry, business, or professional licenses, permits, registrations, or certifications for failure to pay child support.
- AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5; Title 50 and Title 55, relative to denial or revocation of driver, hunting or fishing, occupational, trade, industry, business, or professional licenses, permits, registrations, or certifications for failure to pay child support.

business, or professional licenses, permits, registrations, or certifications for failure to pay child support.

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 5; Title 50 and Title 55, relative to denial or revocation of driver, hunting or fishing, occupational, trade, industry, business, or professional licenses, permits, registrations, or certifications for failure to pay child support.